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**UNITED STATES BANKRUPTCY COURT
 CENTRAL DISTRICT OF CALIFORNIA**

In re:
 ATHERTON FINANCIAL BUILDING, LLC

Debtor(s).

CASE NO.: 14-bk-27223-TD

NOTICE OF SALE OF ESTATE PROPERTY

Sale Date: 12/3/14

Time: 2:00 P.M.

Location: 255 E. Temple St, Ctrm 1345, Los Angeles, CA 90012

Type of Sale: ☐ Public ☒ Private

Last date to file objections:

11/19/14

Description of Property to be Sold: Please see attached Notice for details. See (Exhibit 1).

Terms and Conditions of Sale: Please see attached notice for details. See (Exhibit 1).

Free and clear of liens and interests, subject to Bankruptcy Court approval.

Commercial Property Purchase Agreement in substantially the same form as the Agreement dated 10/31/14.

Escrow can close within three (3) days after entry of the court's order approving the sale.

Proposed Sale Price: \$14,300,000

Overbid Procedure (If Any): _____

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

Contact Person for Potential Bidders (include name, address, telephone, fax and/or e:mail address):

Hearing: December 3, 2014 at 2:00 p.m., Courtroom 1345

David B. Golubchik, Esq.

Levene, Neale, Bender, Yoo & Brill LLP

(310) 229-1234

dbg@lnbyb.com

Date: 11/7/14

EXHIBIT 1

DAVID B. GOLUBCHIK (State Bar No. 185520)
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Attorneys for Debtor and
Debtor in Possession

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:	) Case No.: 2:14-bk-27223-TD
)
ATHERTON FINANCIAL BUILDING, LLC,)
	) Chapter 11 Case
Debtor and Debtor in Possession.)
	) NOTICE OF MOTION FOR ORDER
	) AUTHORIZING SALE OF REAL
	) PROPERTY FREE AND CLEAR OF
	) ALL LIENS, CLAIMS,
	) ENCUMBRANCES AND OTHER
	) INTERESTS AND ASSUMPTION AND
	) ASSIGNMENT OF UNEXPIRED REAL
	) PROPERTY LEASE PURSUANT TO 11
	) U.S.C. §§ 363 AND 365
)
	) <u>Hearing:</u>
	) Date: December 3, 2014
	) Time: 2:00 p.m.
	) Place: Courtroom 1345
	) 255 E. Temple Street
	) Los Angeles, CA 90012
)
)
)

1 **PLEASE TAKE NOTICE** that, on December 3, 2014, at 2:00 p.m. the Honorable
2 Thomas B. Donovan United States Bankruptcy Judge for the Central District of California (the
3 “Court”), will hold a hearing (the “Hearing”) in Courtroom 1345 of the United States
4 Bankruptcy Courthouse located at 255 East Temple Street, Los Angeles, California to consider
5 the Motion For Order Authorizing Sale of Real Property Free and Clear of All Liens, Claims,
6 Encumbrances and other Interests and Assumption and Assignment of Unexpired Real Property
7 Lease Pursuant to 11 U.S.C. §§ 363 and 365 (the “Motion”).

9 **PLEASE TAKE FURTHER NOTICE** that any party wishing to receive a copy of the
10 Motion may make a request in writing to counsel for the Debtor, whose name, address,
11 telephone number, facsimile number, and email address appears in the upper, left-hand corner of
12 the first page of this Notice. The Motion is on file with the Bankruptcy Court and may be
13 accessed and copied at the courthouse during regular business hours or accessed online through
14 the court’s website.

16 The Debtor’s primary asset is real property located at 1906 El Camino Real, Menlo Park,
17 CA 94027 (the “Property”). The Property consists of a two-story class D stud and wood panel
18 office building of approximately 11,855 square feet (the “Building”).

19 The Property is encumbered by statutory senior secured property taxes of approximately
20 \$95,000. In addition, the Property is encumbered by a first priority lien held by Bank SinoPac
21 (the “Bank”) in the principal amount of \$2.5 million. Finally, the Property is encumbered by a
22 second priority lien in favor of David and Cathy Tsang (the “Tsangs”) to secure an obligation in
23 the principal amount of \$5.5 million. The unsecured debts asserted against the Debtor total
24 approximately \$260,000. The Debtor believes that total obligations against the estate are
25 approximately \$10 million.

27 At the commencement of the case, the Debtor sought to employ Intero Real Estate
28

1 Service (“Intero”) as its broker. Due to Interor’s efforts, various parties have expressed a desire
2 to purchase the Property. In particular, on October 31, 2014, buyer Rum Raisins Land Trust (the
3 “Buyer”) submitted an all cash offer to purchase the Property for fourteen million three hundred
4 thousand dollars (\$14,300,000) (the “Purchase Price”), which amount would be enough to pay
5 all of the estate’s debts in full with a distribution to equity. The Debtor and the Buyer then
6 entered into that certain Commercial Property Purchase Agreement (the “Agreement”) dated
7 October 31, 2014 for the sale of the Property.
8

9 Based on the foregoing, the Debtor seeks Court authority to consummate the sale
10 transaction in accordance with the terms and conditions of the Agreement. Based on the fact
11 that the consideration is sufficient to pay all claims in full, resulting in a solvent estate, the
12 Debtor believes that an overbid process is not necessary since the only potential beneficiaries of
13 an auction would be equity holders, who have agreed to proceed with the current sale as is.
14

15 The Debtor is also a party to a non-residential real property lease (“Lease”) with Debtor
16 as the lessor and Noosphere Ventures as the lessee (“Lessee”). Pursuant to the Motion, the
17 Debtor seeks to assume the Lease and assign it to Buyer as part of the sale transaction in
18 accordance with 11 U.S.C. § 365.
19

20 The Debtor anticipates that all secured claims will be paid concurrently with the close of
21 escrow, with the remaining funds being transferred to Debtor’s counsel pending further order of
22 the Court. Thereafter, after the passage of the Bar Date on December 16, 2014, the Debtor
23 anticipates filing a motion to authorize distribution of funds to creditors and dismissal of the
24 case, which would be a much more efficient manner to proceed than a liquidating plan or
25 conversion to Chapter 7.
26

27 **PLEASE TAKE FURTHER NOTICE** that, pursuant to Local Rule 9013-1(f), any
28 opposition or response to the Motion must be filed with the Clerk of the United States Bankruptcy

1 Court and served upon the United States Trustee as well as counsel for the Debtor at the address
2 located in the upper left-hand corner of the first page of this Notice by no later than fourteen (14)
3 days before the hearing on the Motion. Pursuant to Local Rule 9013-1(h), failure to file a timely
4 opposition or response may be deemed by the Court to be consent to the granting of the relief
5 requested in the Motion.
6

7 **WHEREFORE**, the Debtor respectfully requests that this Court enter an order:

- 8 (1) Affirming the adequacy of the Notice given herein;
9 (2) Granting the Motion in its entirety;
10 (3) Authorizing the Debtor to take any and all steps necessary and proper to complete
11 the sale to the Buyer, including the assumption and assignment of Lease to Buyer;
12 (4) Finding the Buyer to be a good faith purchaser with all the protections of 11
13 U.S.C. § 363(m);
14 (5) Waiving the 14-day stay period of Rule 6004(h) and 6006(d) of the Federal Rules
15 of Bankruptcy Procedure;
16 (6) Authorizing a 1.5% commission to the Buyer's Agent that will be shared in
17 Intero's approved 6% commission; and
18 (7) Granting such other and further relief as the Court deems just and proper under
19 the circumstances.
20

21 Dated: November 7, 2014

ATHERTON FINANCIAL BUILDING, LLC

22
23
24 By: /s/ Jeffrey S. Kwong
25 DAVID B. GOLUBCHIK
26 JEFFREY S. KWONG
27 LEVENE, NEALE, BENDER, YOO
& BRILL, L.L.P.
28 Attorneys for Chapter 11 Debtor
and Debtor in Possession

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 10250 Constellation Boulevard, Suite 1700, Los Angeles, CA 90067

A true and correct copy of the foregoing document entitled: **NOTICE OF SALE OF ESTATE PROPERTY** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **November 7, 2014**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Douglas G Boven dboven@reedsmith.com, gsandoval@reedsmith.com
- Christopher D Crowell ccrowell@frandzel.com, efiling@frandzel.com;shom@frandzel.com
- Michael G Fletcher mfletcher@frandzel.com, efiling@frandzel.com;shom@frandzel.com
- David B Golubchik dbg@lnbyb.com, dbg@ecf.inforuptcy.com;stephanie@lnbyb.com
- Jeffrey S Kwong jsk@lnbyb.com
- Queenie K Ng queenie.k.ng@usdoj.gov
- Laura Palazzolo laura.palazzolo@berliner.com
- United States Trustee (LA) ustpregion16.la.ecf@usdoj.gov
- Reed S Waddell rwaddell@frandzel.com, efiling@frandzel.com;sking@frandzel.com

2. SERVED BY UNITED STATES MAIL: On **November 7, 2014**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **November 7, 2014**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Hon. Thomas B. Donovan Served By Attorney Service
United States Bankruptcy Court
255 E. Temple Street, Suite 1352 / Courtroom 1345
Los Angeles, CA 90012

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

November 7, 2014

Lourdes Cruz

/s/ Lourdes Cruz

Date

Type Name

Signature